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REASON FOR REJECTION

APPLICATION NO: 2001-027772
DATE DRAFTED: January 7, 2005
JPO EXAMINER: Aki Nakagi 3230 4P00
PATENT AGENT: Koosaku Sugimura (et al.)
PATENT LAW APPLIED: Principal Sentence of Section 29, Section 29 (1), Section 29 (2)

This application is rejected for the following reasons. Any arguments relative to this notification must be submitted in writing within 60 days of the date of transmittal of this notification.

REASONS

1. The invention of this application, in the claims thereof indicated below, fails to comply with the provisions of Section 29 (1), with respect to the points indicated below; and as such, in accordance with Section 29 (1) of the patent law, may not be granted a patent.
2. The invention of this application, in the claims thereof indicated below, is an invention, which was (were) distributed in Japan or elsewhere or became available to the public through a telecommunication network, prior to the filing of the application; and as such, in accordance with Section 29 (1) (iii) of the patent law, cannot be granted a patent.
3. The invention of this application, in the claims thereof indicated below, is an invention that could easily have been made, prior to the filing of the patent application, by a person with ordinary skill in the art to which the invention pertains, on the basis of an invention described in the publication(s) indicated below, which was (were) distributed in Japan or elsewhere or became available to the public through a telecommunication

network, prior to the filing of the application; and as such, in accordance with Section 29 (2) of the patent law, cannot be granted a patent.

Note: (See the list of cited references)

[1] Reason 1/Claim 5

The invention of claim 5 is recognized as including a method to treat humans, therefore, does not constitute an industrially usable patent.

[2] Reason 2 and 3/Claim 1-6/Cited Reference 1

In table 1 in the cited reference 1, the combined use of epigallocatechin and citrulline demonstrates an antioxidant effect. Also, the paragraphs (0080) and (0084) in the cited reference 1 disclose that the aforementioned combined agent is mixed in pharmaceutical agents, food, and in cosmetics to improve the shelf-life of the products. According to this disclosure, the invention claimed Claims 1 – 6 is the same invention as that claimed in the cited reference 1.

In addition, Table 1 in the aforementioned cited reference 1 discloses that citrulline, though it may be a minute amount, demonstrates the antioxidant effect, and therefore mixing citrulline alone in pharmaceutical agents, food, and cosmetics or using it to improve the shelf-life of products can be conceived by a person with ordinary skill in the art.

[3] Reason 2/Claims, 1, 2, 5/Cited Reference 2

The lines 19 – 51 of column 1 in the cited reference 2 disclose that citrulline has a protection effect from the oxidation stress.

Accordingly, the invention cited in claims, 1, 2, 3, is an invention disclosed in the cited reference 2.

[4] Reason 2/Claims, 1, 4, 5/Cited Reference 3

The cited reference 3 discloses the cosmetic product composition containing citrulline. On the other hand, the invention cited in claims, 1, 4, 5,

is a product “having an active oxygen eliminating effect,” but the aforementioned cited reference 3 does not contain this description.

However, since the cosmetic product composition described in the cited reference 3 contains citrulline, the active oxygen eliminating effect is perceived as already having been produced in the cosmetic product composition. Therefore, the invention cited in claims, 1, 4, 5, cannot be discriminated from the invention described in the cited reference 3 by recognition of the effect and addition of the description “having an active oxygen elimination effect.”

Accordingly, the invention cited in claims, 1, 4, 5, is an invention disclosed in the cited reference 3.

[5] Reason 2/Claims, 1, 3, 5/Cited Reference 4

The cited reference 4 discloses that citrulline is added to food. On the other hand, the invention cited in claims, 1, 3, 5, is the product “having an active oxygen eliminating effect,” but the aforementioned reference 4 does not contain this description.

However, since the food disclosed in the cited reference 4 contains citrulline, the active oxygen eliminating effect is perceived as already having been produced in the food. Therefore, the invention cited in claims, 1, 3, 5, cannot be discriminated from the invention described in the cited reference 4 by recognition of the effect and addition of the description “having an active oxygen elimination effect.”

Accordingly, the invention cited in claims, 1, 3, 5, is an invention disclosed in the cited reference 4.

If more reasons for rejection are found, they will be further notified.

List of Cited References

1. Japanese Published Unexamined Patent Application 09-241637
2. U. S. Patent 6028107 (2000)=USP6028107
3. Japanese Published Unexamined PCT Patent Application 09-505822
4. Japanese Published Unexamined Patent Application 61-074558

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Record of Prior Art Search Result

Fields searched: IPC 7th issue, A61K31, A23L, C09K
DB name: CAPLUS (STN), REGISTRY (STN)

This record of prior art search result does not constitute the reason for rejection.

If you have questions regarding the content of this notification of rejection, please contact the following numbers.

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U.S. Patent and Trademark Office
Translations
9/30/05
Akiko Smith